

## DEPARTMENT OF BENEFIT PAYMENTS

744 P Street, Sacramento, 95814  
(916) 322-6384



October 8, 1975

ALL-COUNTY LETTER NO. 75-213

TO: ALL DISTRICT ATTORNEY'S  
ALL COUNTY WELFARE DIRECTORS

SUBJECT: Chapter 924 of the Statutes of 1975

REFERENCE:

The Governor recently signed AB 2326 (Egeland) into law as Chapter 924 of the Statutes of 1975.

A copy of this legislation is forwarded for your information.

Sincerely,

DENNIS O. FLATT  
Chief Deputy Director

Attachment

cc: CWDA

**OBSOLETE**

Superseded by ACL #77-15  
Issued 3-17-77

residing outside California.

This bill would require that payments be made from the Interstate Collection Incentive Fund to California counties and other states for moneys received or collected from noncustodial parents residing outside California. The equivalent percentage required to be paid is the same as that required from the Support Enforcement Incentive Fund.

This bill would authorize the Department of Benefit Payments to establish the administrative support positions necessary to implement the provisions of law. The positions will be 75 percent federally funded and 25 percent state funded.

Existing law provides that the state shall pay 50 percent of the nonfederal administrative costs of administering the payment of aid grants. This bill would retain that provision with the exception of activities related to collection of support from noncustodial parents and the determination of paternity.

Existing law does not require the furnishing of social security numbers, cooperation by the custodial parent in securing support from the noncustodial parent, or the assignment of support rights to the county, as conditions for eligibility under Aid to Families with Dependent Children.

This bill would impose the above requirements.

Existing law does not prohibit payment by the noncustodial parent directly to the custodial parent.

This bill would require that money collected from noncustodial parents for the support of a needy child, with respect to whom an assignment has been made, shall be paid directly to the district attorney or his designee and shall not be paid directly to the family; and provision is made for transmission to the county department providing aid.

Existing law makes it the duty of the district attorney to enforce the support liability.

This bill designates the Department of Benefit Payments as the single organizational unity whose duty it shall be to administer the State Plan for securing child support and determining paternity. The bill requires the

CHAPTER 924  
of the Statutes of 1975

An act to add Section 208.5 to the Civil Code, to amend Sections 10850, 11457, 11478.5, 11487, and 15200.1 of, to add Sections 11268, 11350, 11350.1, 11350.2, 11450.1, 11475, 11475.1, 11475.2, 11476, 11476.1, 11477, 11477.1, 11500.2, and 15204.2 to, and to repeal Sections 10850.1, 11350, 11352, 11475, 11476, 11477, and 11488 of, the Welfare and Institutions Code, and to repeal Section 42.5 of Chapter 578 of the Statutes of 1971, relating to enforcement of child support, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2326, Egeland. Public assistance: aid to needy children.

Existing statutory law contains no provision regarding an obligation of support by the parents of a minor child to a child born of such minor child.

This bill provides that the father or mother of a minor child shall not be liable for the support of a child of such minor child.

This bill revises the "Aid to Families with Dependent Children Law" relative to eligibility for aid, responsibility of noncustodial spouses of children receiving aid, and the administration and funding thereof.

The purpose of the revision is to make California law in compliance with federal law; and would include the following changes:

Existing law requires that 21.25 percent of the moneys received or collected from noncustodial parents be returned to the counties from the Support Enforcement Incentive Fund.

This bill would increase the amount returned based on federal and state funds to a percentage of 33.75 from October 1, 1975, through June 30, 1976, and 27.75 percent after July 1, 1976.

Existing law makes no provision for an incentive fund for payments to California counties and other states for moneys received or collected from noncustodial parents

made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or Legislature is prohibited.

Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the Department of Benefit Payments or the State Department of Health, and such lists or any other records shall be released when requested by any county welfare department or the Department of Benefit Payments or the State Department of Health. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient. However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services. Any person knowingly and intentionally violating the provisions of this paragraph is guilty of a misdemeanor.

The Department of Benefit Payments shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The Department of Motor Vehicles, upon receipt

of such information, shall inform the Department of Benefit Payments of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

The Department of Benefit Payments may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

SEC. 2. Section 10850.1 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 11268 is added to the Welfare and Institutions Code, to read:

11268. Each applicant for or recipient of aid shall be required as a condition of eligibility, to furnish or cooperate in securing the applicant's social security account number (or numbers, if the applicant has more than one such number). The county shall utilize such account numbers in the administration of aid. Aid, and the opportunity to apply for aid, shall not be denied, delayed, suspended, or terminated pending the issuance

Section 11452, not to exceed the amount of the difference between such amounts and the amount of the maximum aid payable pursuant to subdivision (a) of Section 11450.

If this section is determined by a final judicial decision to be unlawful, it shall cease to be operative after the date of finality of such decision.

SEC. 7. Section 11457 of the Welfare and Institutions Code is amended to read:

11457. Money from noncustodial parents for the support of a needy child with respect to whom an assignment under Section 11477 has been made shall be paid directly to the district attorney or his designee and shall not be paid directly to the family. Such absent parent support payments, when collected by or paid through any public officer or agency, shall be transmitted to the county department providing aid under this chapter.

The Department of Benefit Payments, by regulation, shall establish procedures not in conflict with federal law, for the distribution of such noncustodial parent support payments.

If an amount collected as child support represents payment on the required support obligation for future months, the amount shall be applied to such future months. However, no such amounts shall be applied to future months unless amounts have been collected which fully satisfy the support obligation assigned under subdivision (a) of Section 11477 for the current months and all past months.

SEC. 8. Section 11475 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 11475 is added to the Welfare and Institutions Code, to read:

11475. The State Department of Benefit Payments is hereby designated the single organizational unit whose duty it shall be to administer the state plan for securing child support and determining paternity. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements. The Director of the Department of Benefit Payments shall, not later than

February 1, 1976, and annually thereafter, report to the Legislature on the administration of the state plan for securing support and determining paternity. Such report shall include, but not be limited to, the following:

(a) Information on the administration of the program, including the number of cases and a summary of the amounts collected from noncustodial parents and an analysis of the disbursement of such funds to recipients, counties, and the state.

(b) An analysis of the cost effectiveness of the program.

(c) Any changes in federal statutes or regulations which have occurred on or after July 1, 1975.

The Director of the Department of Benefit Payments shall formulate, adopt, amend or repeal, in accordance with provisions of Section 10554, regulations and general policies affecting the purposes, responsibilities, and jurisdiction of the department and which are consistent with law and necessary for the administration of the state plan for securing child support and determining paternity. The Department of Benefit Payments, with the cooperation of the Department of Justice, shall insure that there is an adequate organizational structure and sufficient staff to perform functions delegated to any governmental unit relating to Title IV-D of the Social Security Act.

SEC. 10. Section 11475.1 is added to the Welfare and Institutions Code, to read:

11475.1. Each county shall maintain a single organizational unit located in the office of the district attorney which shall have responsibility for promptly and effectively enforcing the obligation of parents to support their children and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in

clear and simple language prescribed by the Director of the Department of Benefit Payments, that child support enforcement services are provided to all individuals whether or not they are recipients of public social services.

Nothing herein shall prohibit the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with such departments approved by the Department of Benefit Payments.

SEC. 11. Section 11475.2 is added to the Welfare and Institutions Code, to read:

11475.2. If at any time the Director of the Department of Benefit Payments considers any public agency, which is required by law, by delegation of the department, or by cooperative agreement, to perform functions relating to the state plan for securing child support and determining paternity, to be failing in a substantial manner to comply with any provision of the state plan, the director shall put such agency on written notice to that effect.

If the director determines that there is a failure on the part of such public agency to comply with the provisions of the state plan, or if the State Personnel Board certifies to the director that such public agency is not in conformity with applicable merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that sanctions are necessary to secure compliance, the director may invoke either or both of the following sanctions:

(a) Withhold part or all of state and federal funds, including incentive funds, from such public agency until the public agency shall make a showing to the director of full compliance; or

(b) Notify the Attorney General that there has been a failure to comply with the state plan and the Attorney General shall take appropriate action to secure compliance.

Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide



funds necessary for the continued operation of the state plan as required by law.

SEC. 12. Section 11476 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 11476 is added to the Welfare and Institutions Code, to read:

11476. It shall be the duty of the county department to refer all cases where a parent is absent from the home, or where the parents are unmarried and parentage has not been determined by a court of competent jurisdiction, to the district attorney immediately at the time the application for assistance, or certificate of eligibility, is signed by the applicant or recipient. If an applicant is found to be ineligible, such applicant shall be notified in writing that the referral of case to the district attorney may be terminated at such applicant's request. The county department shall cooperate with the district attorney and shall make available to him all pertinent information as provided in Section 11478.

Upon referral from the county department, the district attorney shall investigate the question of nonsupport or paternity and shall take all steps necessary to obtain support for the needy child and determine paternity in the case of a child born out of wedlock. Upon the advice of the county department that a child is being considered for adoption, the district attorney shall delay the investigation and other actions with respect to the case until advised that the adoption is no longer under consideration. The granting of aid to an applicant shall not be delayed or contingent upon investigation by the district attorney.

Where a court order has been obtained, any contractual agreement for support between the district attorney or the county department and the noncustodial parent shall be deemed null and void to the extent that it is not consistent with the court order.

Whenever a family which has been receiving aid to families with dependent children ceases to receive assistance, the district attorney shall:

(1) Continue to enforce support payments from the noncustodial parent, at the request of the custodial

parent, for a period not to exceed three months from the month following the month in which such family ceased to receive assistance and pay all amounts so collected to the family; and

(2) At the end of such three-month period, if after written notice to the individual, the district attorney is requested to do so by the individual on whose behalf the enforcement efforts will be made, continue to enforce such support payments from the noncustodial parent.

The district attorney shall, where appropriate, utilize reciprocal arrangements adopted with other states in securing support from an absent parent for any child. In individual cases where utilization of reciprocal arrangements has proven ineffective, the district attorney may forward to the Attorney General a request to utilize federal courts in order to obtain or enforce orders for child support. In individual cases where there is a court order for support and where reasonable efforts to collect amounts assigned pursuant to Welfare and Institutions Code Section 11477 have failed, the district attorney may forward a certified copy of such court order to the Attorney General with a request that the case be forwarded to the Treasury Department for collection. The Attorney General shall forward such requests to the Secretary of Health, Education, and Welfare, or his designated representative.

SEC. 13.5. Section 11476.1 is added to the Welfare and Institutions Code, to read:

11476.1. In any case where the district attorney has undertaken enforcement of support, the district attorney may enter into an agreement with the noncustodial parent, on behalf of the custodial parent, a minor child, or children, for the entry of a judgment determining paternity, if applicable, and for periodic child support payments based on the noncustodial parent's reasonable ability to pay. Prior to entering into this agreement, the noncustodial parent shall be informed that a judgment will be entered based on the agreement. The clerk shall file the agreement without the payment of any fees or charges. The court shall enter judgment thereon without action. The provisions of Civil Code Section 4702 shall

apply to such judgment. The district attorney shall be directed to effect service upon the obligor of a copy of the judgment and notify the obligor in writing of the right to seek modification of the amount of child support order upon a showing of changes of circumstances and upon such showing the court shall immediately modify the order and set the amount of child support payment pursuant to Section 11350, and to promptly file proof of service thereof.

For the purposes of this section, in making a determination of the noncustodial parent's reasonable ability to pay, the following factors shall be considered:

- (a) The standard of living and situation of the parties;
- (b) The relative wealth and income of the parties;
- (c) The ability of the noncustodial parent to earn;
- (d) The ability of the custodial parent to earn;
- (e) The needs of the custodial parent and any other persons dependent on such person for their support;
- (f) The age of the parties;
- (g) Any previous court order imposing an obligation of support.

SEC. 14. Section 11477 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 11477 is added to the Welfare and Institutions Code, to read:

11477. As a condition of eligibility for aid paid under this chapter, each applicant or recipient shall:

- (a) Assign to the county any rights to support from any other person such applicant may have in their own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and which have accrued at the time such assignment is made. Receipt of public assistance under this chapter shall operate as an assignment by operation of law.

- (b) Cooperate with the county welfare department and district attorney in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and in obtaining any support payments due any person for whom aid is requested or obtained. The Department of Benefit Payments shall establish an exclusive list of acts, in accordance with federal law,

which shall be the only acts deemed to be a refusal to offer reasonable cooperation and assistance. The county welfare department shall verify that the applicant or recipient refused to offer reasonable cooperation prior to determining that such applicant or recipient is ineligible. The granting of aid shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the district attorney in securing support and determining paternity, where applicable.

A recipient shall be considered to be cooperating with the county welfare department or the district attorney's office and they shall be eligible for aid, if otherwise eligible, if they cooperate to the best of their ability or have good cause for refusal to cooperate. The department, in accordance with federal law, shall establish standards for determining good cause for refusal to cooperate. All required forms to obtain child support or establish paternity shall be made available during the initial interview at the county welfare department. Persons eligible for immediate aid pursuant to Section 11056 or Section 11266 shall receive such aid prior to completing the forms required to obtain child support and establish paternity, provided that they indicate they will cooperate in these matters. Appearances at public agencies required pursuant to this section, subsequent to certification of the applicant shall be scheduled with due regard for his parental duties and employment responsibilities. If an appearance is required at a time other than normal working hours, a statement as to the reason for such appearance shall be inserted in the file of the applicant.

If the relative with whom a child is living is found to be ineligible because of failure to comply with the provisions of this section, any aid for which such child is eligible will, to the extent required by federal law, be provided in the form of protective payments.

The department shall insure that all applicants for or recipients of aid under this chapter are properly notified of the conditions imposed by this section.

SEC. 15.5. Section 11477.1 is added to the Welfare

and Institutions Code, to read:

11477.1. No polygraph tests shall be administered to any applicant or recipient of aid under this chapter for the purposes of enforcement of Title IV-D of the Social Security Act, without written notice to applicant or recipient that such test is not required and without written consent thereto by such applicant or recipient.

SEC. 16. Section 11478.5 of the Welfare and Institutions Code is amended to read:

11478.5. There is in the Department of Justice a parent locator service showing, as far as is known, with respect to any parent who has deserted or abandoned any child:

- (a) The full and true name of such parent together with any known aliases;
- (b) Date and place of birth;
- (c) Physical description;
- (d) Social security number;
- (e) Occupation;
- (f) Military status and Veterans Administration or military service serial number;
- (g) Last known address and date thereof;
- (h) Driver's license number;
- (i) Any police record; and
- (j) Any further information that may be of assistance in locating the noncustodial parent.

To effectuate the purposes of this section, the Attorney General shall, to the extent necessary, utilize the parent locator service in the Department of Health, Education, and Welfare, and, may request and shall receive from departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the Justice Department and the local public agencies to carry out their powers and duties to locate such parents and to enforce their liability for the support of their children. In addition the district attorneys shall submit to the Attorney General a uniform statistical report each month summarizing case and collection activity in their counties in connection with child support enforcement. The Attorney General shall adopt a

uniform report form to be used by the district attorneys in submitting this monthly report. The purpose of this uniform monthly report is to facilitate the analysis of each county's performance in child support activities.

Any records established pursuant to the provisions of this section shall be available only to district attorneys, probation departments, state locator services, the federal parent locator service, and courts having jurisdiction in support or abandonment proceedings or actions.

The Department of Justice, in consultation with the Department of Benefit Payments, shall promulgate rules and regulations to facilitate maximum and efficient use of such locator service.

This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 17. Section 11487 of the Welfare and Institutions Code is amended to read:

11487. Except as provided in Section 11457, whenever any aid under this chapter is repaid to a county or recovered by a county, the state shall be entitled to a share of the amount received or recovered, proportionate to the amount of state funds paid, and, if funds advanced by the federal government were paid, the federal government shall be entitled to a share of the amount received or recovered, proportionate to the amount of federal funds paid.

SEC. 18. Section 11488 of the Welfare and Institutions Code is repealed.

SEC. 19. Section 15200.1 of the Welfare and Institutions Code is amended to read:

15200.1. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Support Enforcement Incentive Fund, from which the Department of Benefit Payments shall make payments to each county to be deposited in the county general fund which shall be a combination of state and federal funds equivalent to: (a) effective October 1, 1975, through June 30, 1976, 33.75 percent of that portion of the amounts received from or collected from noncustodial parents which is used to reduce or repay aid paid pursuant to this chapter, and

which qualify for federal incentive funds (b) effective July 1, 1976, 27.75 percent of the amounts received from or collected from noncustodial parents which is used to reduce or repay aid payment pursuant to this chapter and which qualify for federal incentive funds.

Where more than one county has participated in such enforcement or collection, the incentive payment authorized by this section shall be made to the county making the collection.

Where more than one state has participated in such enforcement or collection, the incentive payment, if any, shall be made in accordance with Section 15200.2.

SEC. 20. Section 15200.2 is added to the Welfare and Institutions Code, to read:

15200.2. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, to a fund to be known as the Interstate Collection Incentive Fund, from which the department shall make payments to California counties and other states which shall be a combination of state and federal funds equivalent to: (a) effective October 1, 1975, through June 30, 1976, 33.75 percent of that portion of the amounts received from or collected from noncustodial parents residing outside California which is used to reduce or repay aid paid pursuant to this chapter and which qualify for federal incentive funds (b) effective July 1, 1976, 27.75 percent of that portion of the amounts received from or collected from noncustodial parents residing outside California which is used to reduce or repay aid paid pursuant to this chapter and which qualify for federal incentive funds. The Department of Benefit Payments shall, by regulation, apportion the incentive payment between the collecting state and the county receiving the noncustodial parent support payment.

Where a county makes a collection for another state, the Department of Benefit Payments shall forward any incentive payment received from such state to the county making the collection from the noncustodial parent.

SEC. 21. Section 15204.2 is added to the Welfare and Institutions Code, to read:

15204.2. The state shall pay 50 percent of the nonfederal administrative costs of administering the payment of aid grants under Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code, with the exception of activities related to the collection of support from noncustodial parents and the determination of paternity in the case of a child born out of wedlock.

SEC. 22. Section 42.5 of Chapter 578 of the Statutes of 1971 is repealed.

SEC. 22.5. The Department of Benefit Payments is hereby authorized to establish those administrative support positions necessary to carry out the provisions of this enactment. These positions will be 75 percent federally funded and 25 percent state funded.

SEC. 23. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because appropriations are made in Sections 15200.1 and 15200.2, and this act contains a revenue source which may be utilized by local governments to cover the cost of the mandate.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are as follows:

This proposed legislation is based on Public Law 93-647, Part B, which deals with enforcement of child support and which requires all states to adopt child support programs in accordance with federally established standards. The effective date of this public law is July 1, 1975, and in order to bring California law into conformity with the federal requirements, this legislation must be enacted and in effect by that date.

If these conforming amendments are not in effect by July 1, 1975, the following will occur:

1. The provisions of California's incentive program will be out of conformity with federal requirements. The Support Enforcement Incentive Fund presently returns



to the counties 21.25 percent of the moneys collected in welfare cases. Public Law 93-647 mandates a payment of 25 percent.

2. Eligibility requirements for the AFDC program will be out of conformity with the requirements of the Social Security Act, since P.L. 93-647 imposes conditions of eligibility not existent in present state law. These conditions are furnishing social security numbers, cooperation by the custodial parent in securing support, and assigning support rights to the county. Other changes mandated by P.L. 93-647 are single child support organizational units and a prohibition against support payments made directly to the custodial parent.

Failure to remedy this inconsistency will result in applicants who are ineligible under federal law qualifying for aid under state law. This will result in possible fiscal sanctions being imposed because ineligible persons are included in the caseload.

3. States which do not have statutory and regulatory plans in conformity with federal requirements by January 1, 1977, will be subject to fiscal sanctions in the amount of 5 percent per quarter of the federal AFDC funds.

4. Failure to have an approved state plan will result in disallowance of claims for costs of collection after July 1, 1975. This would have a serious impact as most counties presently receive 50 percent reimbursement for such activities from the federal government and 25 percent from the state.